

## **IC 33-4-5**

### **Chapter 5. Jury Commissioners of Circuit Courts and Jury Service**

#### **IC 33-4-5-1**

##### **Appointment; oath or affirmation**

Sec. 1. The circuit court shall, during the month of November, appoint for the next calendar year two (2) persons, at least one (1) of whom shall be a resident of the town or city in which the court shall be held, as jury commissioners, who shall be freeholders and voters of the county, well known to be of opposite politics, and of good character for intelligence, morality and integrity, and cause them to appear and take an oath or affirmation in open court, to be entered of record in the order-book of the court in the following form: "You do solemnly swear (or affirm) that you will honestly, and without favor or prejudice, perform the duties of jury commissioners during your term of office, that, in selecting persons to be drawn as jurors, you will select none but persons whom you believe to be of good repute for intelligence and honesty, that you will select none whom you have been or may be requested to select, and that, in all of your selections, you will endeavor to promote only the impartial administration of justice." The court shall thereupon instruct them concerning their duties.

*(Formerly: Acts 1881(ss), c.69, s.1; Acts 1899, c.195, s.1; Acts 1967, c.140, s.1.)*

#### **IC 33-4-5-2**

##### **Selection of prospective jurors; procedures**

Sec. 2. (a) The commissioners shall immediately, from the names of legal voters and citizens of the United States on the latest tax duplicate and the tax schedules of the county, examine for the purpose of determining the sex, age, and identity of prospective jurors, and proceed to select and deposit, in a box furnished by the clerk for that purpose, the names, written on separate slips of paper of uniform shape, size, and color, of twice as many persons as will be required by law for grand and petit jurors in the courts of the county, for all the terms of such courts, to commence with the calendar year next ensuing. Each selection shall be made as nearly as possible in proportion to the population of each county commissioner's district. In making such selections, they shall in all things observe their oath, and they shall not select the name of any person who is to them known to be interested in or has cause pending which may be tried by a jury to be drawn from the names so selected. They shall deliver the box, locked, to the clerk of the circuit court, after having deposited therein the names as herein directed. The key shall be retained by one (1) of the commissioners, not an adherent of the same political party as is the clerk.

(b) In a county containing a consolidated city, the commissioners may, upon an order made by the judge of the circuit court and entered in the records of the circuit court of the county, make such selections and such deposits monthly instead of annually and may

omit the personal examination of prospective jurors, the examination of voters lists, and make selection without reference to commissioners' districts. The judge of the circuit court in any such county containing a consolidated city may appoint a secretary for the jury commissioners, and sufficient stenographic aid and clerical help to properly perform the duties of the commissioners and may fix the salaries of the commissioners, the secretary, and stenographic and clerical employees, and may also provide office quarters and necessary supplies therefor, all of which shall be paid for from the treasury of the county upon the order of the court.

(c) Subject to appropriations made by the county fiscal body, the jury commissioners may utilize a computerized jury selection system. However, the system utilized for the selection system must be fair and may not violate the rights of persons with respect to the impartial and random selection of prospective jurors. The jurors selected under the computerized jury selection system must be eligible for selection under this chapter. The commissioners shall deliver the names of the individuals selected to the clerk of the circuit court. The commissioners shall observe their oath in all activities taken under this subsection.

(d) The jury commissioners may supplement voter registration lists and tax schedules under subsection (a) with names from lists of persons residing in the county that the jury commissioners may designate as necessary to obtain a cross section of the population of each county commissioner's district. The lists designated by the jury commissioners under this subsection must be used for the selection of jurors throughout the entire county.

(e) The supplemental sources designated under subsection (d) may consist of such lists as those of utility customers, persons filing income tax returns, motor vehicle registrations, city directories, telephone directories, and driver's licenses. These supplemental lists may not be substituted for the voter registration list. The jury commissioners may not draw more names from supplemental sources than are drawn from the voter registration lists and tax schedules.

*(Formerly: Acts 1881(ss), c.69, s.2; Acts 1939, c.132, s.1; Acts 1947, c.15, s.1; Acts 1959, c.132, s.1; Acts 1961, c.254, s.1.) As amended by P.L.300-1983, SEC.2; P.L.282-1989, SEC.1; P.L.12-1992, SEC.122.*

### **IC 33-4-5-3**

#### **Special venire issuing for jurors**

Sec. 3. Whenever any such court shall be of the opinion, that by reason of numerous challenges in any cause, a special venire should issue for jurors, it shall direct the clerk to draw from said box such number of names as shall be deemed proper, and the persons so drawn shall be summoned by virtue of such special venire. If, by reason of such special drawing or otherwise, the names in such box shall be exhausted, so that any of the courts of the county cannot be furnished with juries at any term during the calendar year, the circuit court, or judge thereof in vacation, shall by order require such jury

commissioners at a time to be fixed, to deposit in said box such additional number of names as said court or judge shall name in the order, and they shall be selected under the rules and regulations prescribed in section 2 of this chapter, and the box shall then be delivered to the clerk, as in that section provided, to be drawn by the clerk as may be necessary under the provisions of section 9 of this chapter.

*(Formerly: Acts 1881(ss), c.69, s.4.) As amended by Acts 1981, P.L.272, SEC.20; P.L.3-1990, SEC.108.*

#### **IC 33-4-5-4**

##### **Jury box and key**

Sec. 4. Said box shall remain in possession of the clerk, securely locked and the only key thereto, shall be and remain in the possession of the jury commissioner, of opposite politics from said clerk, who shall be present at each and every time said box is to be opened, for any purpose within the provisions of this chapter.

*(Formerly: Acts 1881(ss), c.69, s.5; Acts 1895, c.128, s.1.) As amended by Acts 1981, P.L.272, SEC.21.*

#### **IC 33-4-5-5**

##### **Parties to or persons interested in pending cause barred; failure to discharge duties; contempt; penalty**

Sec. 5. No person shall be appointed a jury commissioner who, at the time is party to, or interested in a cause pending in the county, which may be tried by a jury to be drawn during the calendar year next succeeding his appointment. Any person appointed a jury commissioner, who shall fail to take upon himself said office, or having accepted the same, shall fail, without good cause, to discharge any of the duties thereof, shall be deemed guilty of contempt of the court, and shall be summarily punished by fine, of not less than five (\$5.00) nor more than one hundred dollars (\$100).

*(Formerly: Acts 1881(ss), c.69, s.7.)*

#### **IC 33-4-5-6**

##### **Vacancy in office; per diem**

Sec. 6. Should a vacancy occur in the office of jury commissioner, at any time, or should any such commissioner fail to act when required, or because of illness or for any other cause, be unable to act, the circuit court shall appoint a person to fill such vacancy, or to act for the time being, as the case may require, and such person so appointed shall possess the qualifications required for jury commissioners, and shall be an adherent of the same political party as is the commissioner in whose stead he is appointed to serve, and he shall take the oath required by this chapter. For the time actually employed in the performance of his duties, each jury commissioner shall be allowed a per diem to be fixed by the court, and upon such allowance the county auditor shall draw his warrant, and the same be paid out of the county treasury.

*(Formerly: Acts 1881(ss), c.69, s.8; Acts 1939, c.132, s.2.) As*

*amended by Acts 1981, P.L.272, SEC.22.*

**IC 33-4-5-7**

**Restoring right to serve on a jury; right to possess a firearm not restored**

Sec. 7. (a) A person shall be excused from acting as a juror if the person:

- (1) is over sixty-five (65) years of age;
- (2) is a member in active service of the armed forces of the United States;
- (3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:
  - (A) the United States;
  - (B) Indiana; or
  - (C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

- (4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;
- (5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;
- (6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;
- (7) is a veterinarian licensed under IC 15-5-1.1;
- (8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;
- (9) is a dentist licensed under IC 25-14-1;
- (10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or
- (11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A); and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

- (1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.
- (2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.
- (3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

- (4) The person is under a sentence imposed for an offense.
- (5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.
- (6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

- (1) after the person is no longer under a sentence imposed for an offense; or
- (2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

- (1) Whether the person has been subject to:
  - (A) a protective order;
  - (B) a no contact order;
  - (C) a workplace violence restraining order; or
  - (D) any other court order that prohibits the person from possessing a firearm.
- (2) Whether the person has successfully completed a substance abuse program, if applicable.
- (3) Whether the person has successfully completed a parenting class, if applicable.
- (4) Whether the person still presents a threat to the victim of the crime.
- (5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (d) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified

conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

*(Formerly: Acts 1881(ss), c.69, s.9; Acts 1917, c.176, s.1; Acts 1951, c.49, s.1; Acts 1959, c.62, s.1.) As amended by P.L.171-1984, SEC.20; P.L.282-1989, SEC.2; P.L.4-1998, SEC.4; P.L.2-2003, SEC.79; P.L.195-2003, SEC.2.*

#### **IC 33-4-5-8 Repealed**

*(Repealed by P.L.171-1984, SEC.80.)*

#### **IC 33-4-5-9**

##### **Drawing of jurors**

Sec. 9. (a) During the month of December, and at such other times as the judge deems necessary, the judge of any court of record in which jury trials are had shall by written order direct the clerk of the circuit court to draw grand jurors or petit jurors from the names selected by the jury commissioners, which names shall be drawn by the clerk in the presence of the jury commissioners, in a number equal to the number of jurors to be summoned according to the judge's orders. The names of jurors for each court having criminal jurisdiction shall be drawn first.

(b) At the time of the drawing, the clerk shall enter in the order book of the court a list of the names drawn, in the order in which they were drawn. He shall attach his certificate to attest to the accuracy of the list. The clerk shall issue venires for such jurors as the courts direct. However, the jurors called to service shall be identified long enough before the trial or grand jury session to permit counsel to study their backgrounds.

(c) Notice to or summons of persons for jury duty shall be served by the clerk of the circuit court upon order of the court.

(d) The sheriff or bailiff shall call the jurors to the jury box in the same order in which their names were drawn. Jurors shall serve for three (3) months, or for a shorter period if a shorter period is specified in the judge's written order.

(e) The provisions of this section shall be construed to supplement IC 34-36-2, and IC 34-36-3-5 through IC 34-36-3-7, and other statutory provisions for special juries, for juries by agreement, for juries from other counties, for struck juries, and for special venires.

This section shall be construed liberally, to the effect that no indictment shall be quashed, and no trial, judgment, order, or proceeding shall be reversed or held invalid on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

*As added by P.L.171-1984, SEC.21. Amended by P.L.167-1984, SEC.33; P.L.1-1998, SEC.174.*

#### **IC 33-4-5-10**

##### **Repealed**

*(Repealed by P.L.305-1987, SEC.38.)*

#### **IC 33-4-5-11**

##### **Applicability of chapter**

Sec. 11. (a) This chapter does not apply to a county that chooses under subsection (b) to follow the procedure for jury selection and service set out in IC 33-4-11.

(b) The court administrator or the clerk of the circuit and superior courts of a county may choose to follow the procedure for jury selection and service set out in IC 33-4-11 instead of the procedure set out in this chapter. The court administrator shall serve as the jury commissioner under IC 33-4-11. If the decision to follow IC 33-4-11 is made, all of the provisions of IC 33-4-11 must be followed.

*As added by P.L.5-1988, SEC.165. Amended by P.L.12-1992, SEC.123; P.L.214-1996, SEC.1; P.L.4-1998, SEC.5.*